

level under other authority, other than those employees who are required to file public financial disclosure reports by title II of the Ethics in Government Act of 1978, who are: (i) Responsible for making a decision or taking an action in regard to Commission contracting or procurement, (ii) responsible for conducting investigative and research activities where the decision to be made or action to be taken could have an economic impact on any non-Federal enterprise, or (iii) responsible for exercising the authority of any supervisory or investigative employee in the absence of such employee.

(2) The Director of Personnel, upon obtaining the advice of the General Counsel, shall be responsible for determining which positions below GS-13 meet the criteria of paragraph (b)(1) of this section. The Director of Personnel shall justify his or her determination in writing and shall submit it to the Office of Personnel Management for its approval. Upon obtaining the approval of the Office of Personnel Management, the Director of Personnel shall include the listing of these positions in the chapter of the Commission's Policy Manual pertaining to the filing of confidential statements of employment and financial interests and shall furnish copies thereof to the Deputy DAEO and to affected employees.

(3) The Director of Personnel shall evaluate the determination under paragraph (b)(2) of this section as of January 1 and July 1 of each year. When organizational changes or personnel actions indicate that positions should be either added to or taken from the list of positions which the Director of Personnel has determined meet the criteria of paragraph (b)(1) of this section, the Director of Personnel shall make a new determination under paragraph (b)(2) of this section and shall take all other steps required by paragraph (b)(2) immediately upon the implementation of said organizational changes or personnel actions.

[46 FR 17543, Mar. 19, 1981, as amended at 56 FR 36726, Aug. 1, 1991]

**§ 200.735-114a Employees not required to submit statements.**

(a) Employees in positions that meet the criteria in paragraphs (b)(1) or

(c)(1) of § 200.735-114 of this subpart may be exempted from the reporting requirement of § 200.735-114 if the Director of Personnel, upon obtaining the advice of the General Counsel, determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;

(2) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(b) All determinations made pursuant to paragraph (a) shall be documented in a writing which shall be annexed to the listings required by paragraphs (b)(2) and (c)(2) of § 200.735-114 of this subpart. The factual bases and reasons for determinations under paragraphs (a)(1) and (a)(2) of this section shall be specified by the Director of Personnel in said writing. Said writing shall refer to the *position* only and shall not include the name, or other identifying particular, of the incumbent occupying the position.

(c) A statement of employment and financial interests from commissioners is not required by this subpart. Such employees are subject to separate reporting requirements under section 401 of Executive Order 11222 (3 CFR 306 (1964-1965 Comp.)).

[42 FR 59958, Nov. 23, 1977]

**§ 200.735-114b Employee complaints on filing requirements.**

Any employee who believes that his position has been improperly included under the reporting requirements of § 200.735-114 may obtain a review thereof through the Commission's grievance procedures.

[42 FR 59958, Nov. 23, 1977]

**§ 200.735-114c Voluntary submission by employees.**

Any employee not required to submit a statement of employment and financial interests under the criteria established by § 200.735-114 may submit such a statement to the Deputy Counselor